

**REMARKS/ARGUMENTS**

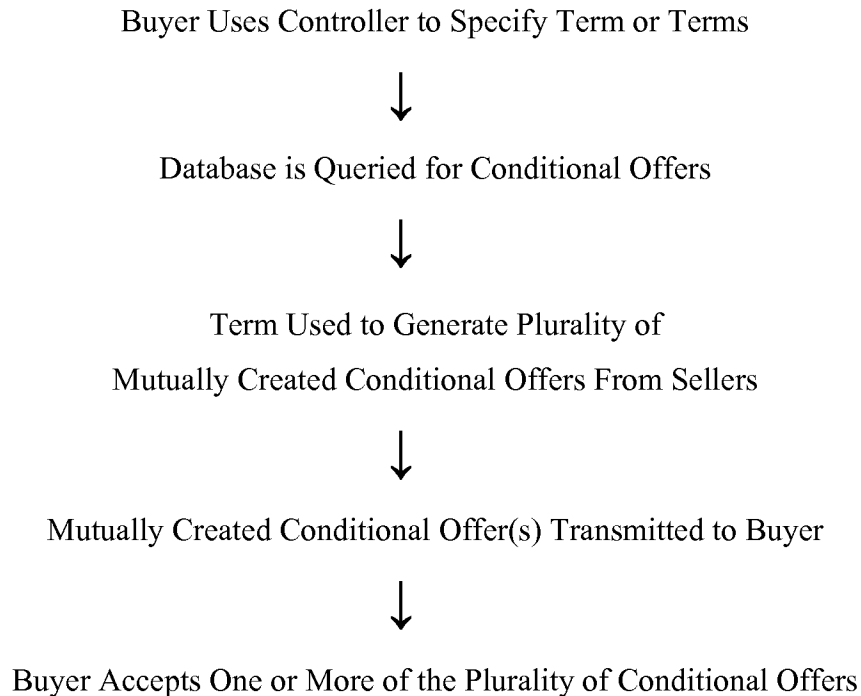
Claims 1-4 are pending in the application. Claim 1 has been amended for clarity. Claim 5 has been added by this amendment.

Claims 1-4 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,336,105 to Conklin, et al., (“Conklin”). This rejection is respectfully traversed.

The Examiner asserts that the invention in Claim 1 of the present application is disclosed in Conklin, (col.13, line 60 to col.14, line 20; col.23, line 23 to col.24, line 20; and col. 24, line 45 to col.25, line 63). The Applicant respectfully disagrees.

The process of the presently claimed invention begins with the controller allowing the buyer to specify, via an electronic network, at least one term consisting of minimum quantities the buyer would agree to purchase, minimum qualities the buyer would accept, the minimum length of time to which the buyer would agree to be bound to purchase the minimum quantities containing the minimum qualities, and the maximum or minimum price the buyer would pay. Based upon the buyer’s specification of that term or terms, a database is queried and a plurality of mutually created conditional original sales offers from a corresponding plurality of sellers are generated. Each of these mutually created original sales offers includes at least that term specified by the buyer and at least one term specified by one of the sellers, the latter being different than that term specified by the buyer. One or more of the conditional original sales offers are transmitted to the buyer. The buyer then accepts, via the network, one or more of the conditional original sales offers.

Thus, the system allows the individual who seeks to receive goods or services to act much like a seller does in a conventional e-commerce system. In relevant part, the presently claimed process operates as follows:



The invention as summarized above and as recited in Claim 1 includes the step of “generating a plurality of mutually created conditional original sales offers to the buyer from a corresponding plurality of sellers”.

In contrast, Conklin specifies a system wherein a single buyer makes an offer to a specific seller to which the seller replies. See, e.g. Conklin, FIG. 7, 525-550 wherein a buyer makes an offer to a single seller. See also Conklin, col. 23, line 27-28 “participant 08 proposing terms to another participant” (emphasis added). See also the claims of Conklin, wherein every independent claim refers only to a first user and a second user. Claim 1 has been amended to clarify that the plurality of conditional original sales offers generated by the system are offers to a single buyer.

Second, the present application provides that the invention generates a plurality of offers. For example, see present application at FIG. 2, 350-542. Using terms and conditions which sellers are willing to meet and which are present in the invention’s database, offers are generated by the invention. During the initial offer phase in the present invention, the invention matches a buyer’s criteria to terms already posted by sellers to generate a plurality of offers. In this respect,

claim 1 has been amended to clarify that querying a database for relevant conditional sales offers. Support for this amendment may be found, e.g., in Applicant's FIG. 2. Thus, the invention, in effect, creates an automated auction wherein sellers compete with one another by entering in competing terms.

In contrast, Conklin specifies a system wherein a single buyer makes an offer to a specific seller to which the seller replies. See also Conklin col. 23, lines 27-28, "participant 08 proposing terms to another participant" (emphasis added). In Conklin, there is no provision for an offer from the seller to be generated using parameters stored on the system's database, nor does the system implement an auction wherein multiple sellers compete regarding a single buyer inquiry.

The Court of Appeals for the Federal Circuit has consistently held that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick, 221 USPQ 481, 485 (Fed. Cir. 1984). Conklin clearly fails to teach or suggest steps positively recited and claimed in Applicants' independent claim 1. Thus, Applicants' invention is patentable over Conklin.

New dependent claim 5 has been added to recite a feature in the present invention wherein prospective buyers and/or sellers of goods and services are able to anonymously exchange conditional Requests For Bids and Conditional Sales Offers prior to the acceptance of a binding offer. Conklin makes no provision for a fully anonymous negotiation process.

#### **REMARKS/ARGUMENTS**

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that claims 1-5 are in condition for allowance and Notice to that effect is respectfully solicited. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, the Examiner is courteously requested to contact applicant's undersigned representative.

**AUTHORIZATION**

The Commissioner is authorized to charge any additional fees associated with this filing, or credit any overpayment, to Deposit Account No. 50-0653. If an extension of time is required, this should be considered a petition therefor.

Respectfully submitted,



---

Richard E. Kurtz, II  
Reg. No. 33,936  
Attorney for Applicant

GREENBERG TRAUIG  
1750 Tyson's Boulevard  
Suite 1200  
McLean, VA 22102  
(703) 749-1330  
E-mail: kurtzr@gtlaw.com

Filed: September 21, 2007